

REMARKS

Entry of the foregoing, and re-examination and reconsideration of the subject application, in view of the amendments above and remarks below, are respectfully requested.

Status of Claims

By the above amendments, the word “substantially” has been deleted from claim 1. Claims 1 and 22-26 remain pending in the application. Each of these claims is under consideration.

Claim Rejections – 35 U.S.C. § 112

In the Office Action, claims 1 and 22-26 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement with respect to the claim language “wherein the adhesive material is substantially free of polypropylene.” Applicants disagree with the propriety of the rejection for reasons of record. However, to expedite prosecution, Applicants have deleted the word “substantially”. Accordingly, the rejection is now moot and should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 1 and 22-26 also stand rejected under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over Peoples (U.S. Patent No. 4,508,771). For the following reasons, this rejection should be withdrawn.

Peoples does not disclose or suggest each feature of claim 1. For example, as mentioned in the prior responses, Peoples fails to disclose or suggest using an adhesive material comprising a blend of ethylene methyl acrylate copolymer and another polymer. Notwithstanding this difference, the Examiner still maintains the rejection, stating that “Peoples explicitly teaches the inventive polymer layer (i.e., thermoplastic barrier coating) can be applied directly to the backloops of the tufts in order to bind said tufts in the primary backing (col. 5, lines 12-24). This embodiment of the polymeric layer, as one skilled in the art readily knows, is well known in the art as an

adhesive backcoat that binds the tufts securely in a primary backing.” It is unclear from the Examiner’s quoted language whether the Examiner believes that the barrier coating disclosed at col. 5, lines 12-24 is the primary backing itself, or a separate layer over a primary backing. The proper reading of the embodiment at col. 5, lines 12-24, however, is that the barrier coating is the primary backing itself. The relevant language at col. 5, lines 12-24 is reproduced below with numbers inserted in brackets to help identify each step of the disclosed method:

In yet another embodiment of the present invention the method for producing a carpet construction such as that described above comprises [1] providing a plurality of carpet fibers, preferably in the form of carpet tufts, [2] preparing a thermoplastic barrier coating comprising ... , and [3] applying the thermoplastic barrier coating onto the lower surface of the carpet fibers so as to securely bind the carpet fibers together and to provide a carpet backing therefore [*sic: therefor*].

From the steps of the disclosed method, it can be seen that there is nothing between the carpet fibers and the barrier coating. Thus, the barrier coating, in this embodiment, is the primary carpet backing itself.

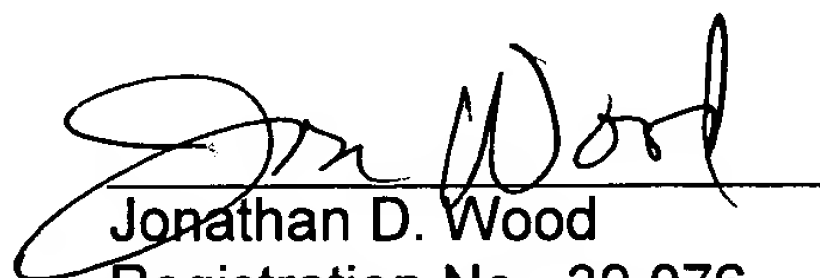
The Examiner further states that “Peoples also teaches applying a textile pad or the like over the lower surface of the polymeric layer opposite the carpet face (col. 5, lines 38-43 and col. 10, lines 14-17). One skilled in the art readily recognizes this textile pad as a secondary backing.” Even if we were to accept that the textile pad is a secondary backing, this embodiment still does not anticipate or render obvious the claimed invention because it only contains two layers. One layer is the barrier coating, which also acts as an adhesive according to the Examiner, and the second layer is the textile pad. There is no teaching or suggestion of a separate adhesive layer between the barrier coating and the textile pad, much less one having the claimed composition.

Accordingly, for the reasons set forth above, Peoples fails to disclose or suggest each feature of the present invention. As a result, there’s no *prima facie* case of obviousness, much less one of anticipation. Therefore, the rejection under 35 U.S.C. §§ 102/103 should be withdrawn.

Conclusion

In summary, Applicants believe the application to be in condition for allowance. Accordingly, the Examiner is respectfully requested to reconsider the rejection(s), remove all rejections, and pass the application to issuance.

Respectfully submitted,


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Karen Taylor

2/18/2005
Date